

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BENJAMIN J. WHERRY,
Plaintiff,

vs

WARDEN SHERMAN, et al.,
Defendants.

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C.A. No. 06-100 Erie

REPORT AND RECOMMENDATION

AND NOW, this 23rd day of June, 2006, after Plaintiff Rasheen Newkirk presented a civil rights complaint which he seeks leave to prosecute *in forma pauperis* [Document # 14], and it appearing that he has an average monthly balance of \$ 875.33 in his account at FCI-McKean, which sum is far in excess of the \$ 350.00 filing fee required to commence this action, and it further appearing that requiring said Plaintiff to pay the filing fee will not deprive him of any necessities of life at the Institution,

It is recommended that Plaintiff Newkirk's motion for leave to proceed *in forma pauperis* [Document # 14] be denied.

Plaintiff Newkirk shall have ten (10) days from the date of service to file written objections to this Report and Recommendation. Failure to file timely objections may constitute a waiver of any appellate rights.

S/Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief U.S. Magistrate Judge

cc: Rasheen Newkirk # 11341-055
FCI-McKean
P.O. Box 8000
Bradford, PA 16701